



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.4555 of 2015

B.Venkatesubbarao

... Petitioner

-Vs-

1.The Principal Secretary to Government,
Transport Department,
Secretariat, Chennai-600 009.

2.The Managing Director,
Tamil Nadu State Transport Corporation,
(Madurai) Limited,
Bye-Pass Road, Madurai-625 016.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the proceedings issued by the first respondent in his letter No.5754/E/2013, dated 17.09.2014 and in his letter No.10710/D2/2014 dated 23.09.2014 and quash the same and consequently, to direct the respondents to revise the petitioner's gratuity based on the increased maximum ceiling of gratuity of Rs.10/- lakhs as provided in the G.O.Ms.No.235, Finance (Pay Cell) Department dated 01.06.2009 and to pay the difference amount of gratuity accordingly.

For Petitioner: Mr.C.Thangamani

For R1 : Mr.M.Jeyakumar,
Additional Government Pleader.

For R2 : Mr.A.Jeyaram

ORDER

The order of rejection issued by the first respondent in proceeding dated 17.09.2014, rejecting the claim of the writ petitioner for grant of enhanced gratuity as per the Government Order issued in G.O.Ms.No.235, Finance (Pay Cell) Department dated 01.06.2009, is under challenge in the present Writ Petition.

2.The writ petitioner joined as Assistant Executive



Engineer in the Transport Corporation and retired from service on attaining the age of superannuation on 31.10.2009. The terminal and retirement benefits were settled in favour of the writ petitioner as per the rules in force.

3.The writ petitioner claims that the Government of Tamil Nadu has enhanced the maximum ceiling of gratuity payable to an employee from Rs.3.50/- lakh to Rs.10/- lakh with effect from 01.01.2006, as per G.O.Ms.No.235, Finance (Pay Cell) Department, dated 01.06.2009. Therefore, the writ petitioner claims that he is also eligible for the enhancement of gratuity.

4.The Government Order issued in G.O.Ms.No.235, states that maximum quantum of gratuity / death cum retirement gratuity shall be enhanced from Rs.3.50/- lakhs to Rs.10/- lakhs. The Government Order was issued based on the recommendations of the official committee on pay revision. The said pay revision was extended to the family pensioners. However, the Government Order issued accepting the recommendations of the one man committee.

5.The learned counsel appearing on behalf of the second respondent states that pursuant to the recommendations of the one man committee, the Government also issued G.O.Ms.No.235, for Government servants as well as for the pensioners and family pensioners. However, necessary amendments were issued under the Payment of Gratuity Act and accordingly, notification was issued in the Government gazette only on 18th day of May, 2010. The notification issued by the Ministry of Labour and Employment undoubtedly, categorically states that "in exercise of the powers conferred by sub-section (2) of Section 1 of The Payment of Gratuity (Amendment) Act, 2010 (15 of 2010), the Central Government hereby appoints the 24th day of May, 2010, as the date on which the said Act shall come into force."

6.Thus, the amendment was implemented with effect from 24th day of May, 2010. But, as far as the enhancement of gratuity is concerned, though the Government issued G.O.Ms.No.235, on 01.06.2009, the amendment was notified in the gazette notification by stating that the amendment Act will come into force with effect from 24th day of May, 2010. The writ petitioner admittedly, retired from service on 31.10.2009.

7.This being the fact, enhanced gratuity as per the Payment of Gratuity (Amendment) Act, 2010 cannot be applied in the case of the writ petitioner.

8.In view of the fact that the Amendment Act came into force with effect from 24th day of May, 2010 i.e., after the retirement of the writ petitioner, he is not entitled for



enhancement of payment of gratuity. Accordingly, this Writ Petition is devoid of merits and the same stands dismissed. No costs.

Sd/-

Assistant Registrar (CRL.SIDE)

// True Copy //

Sub Assistant Registrar (CS)

To

1.The Principal Secretary to Government,
Transport Department,
Secretariat, Chennai-600 009.

2.The Managing Director,
Tamil Nadu State Transport Corporation,
(Madurai) Limited,
Bye-Pass Road, Madurai-625 016.

+1 CC to M/s.C. THANGA MANI, Advocate (SR-83055[F] dated 22/08/2019)

+1 CC to M/s.SPL GP (SR-83295[F] dated 26/08/2019)

MYR

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21.08.2019

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